

Message Text

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ACTION EA-10

INFO OCT-01 ISO-00 EB-07 L-03 H-02 COME-00 CIAE-00 INR-07

NSAE-00 AGR-05 /035 W

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R 250144Z JUN 75

FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC 8867

INFO AMCONSUL MELBOURNE

AMCONSUL HONG KONG

AMCONSUL SURABAYA

AMCONSUL MEDAN

C O N F I D E N T I A L SECTION 1 OF 2 JAKARTA 7605

E.O. 11652: GDS

TAGS: BDIS, ID

SUBJ: CAMEO-NIXA TRADE COMPLAINT

REF: (A) STATE 114887 (NOTAL) (B) STATE 139515 (NOTAL)
(C) 10 FAM 980 (D) JAKARTA 6391 (NOTAL)

BEGIN UNCLASSIFIED

SUMMARY: IN VIEW URGENT NEED PRESENT GUNN PROPOSED SOLUTIONS
BEFORE GRAND UNITY FINISHED UNLOADING IN BANYUWANGI,
EMBASSY DECIDED PROCEED WITHOUT USUAL TRADE DISPUTE
DOCUMENTATION REQUIRED REF (C). EMBOFF CONTACTED PERTANI,
INDAUS, GOI TRADE DEPT., AND OTHER SOURCES. PICTURE
PORTRAYED THESE MEETINGS EXCEEDINGLY MORE COMPLEX THAN
AND CONTRASTS SHARPLY WITH THAT DESCRIBED REFTEL.
EMBASSY CONCLUDES GUNN DISPUTE IS WITH MIDDLEMEN RATHER
THAN GOI AND THAT SUPPLY CONTRACT IS NOW CANCELLED.

END SUMMARY.

1. OUTLINE OF EMBOFF CONVERSATIONS FOLLOWS:

A. P.T. PERTANI SAID GRAND UNITY STILL UNLOADING AS
OF JUNE 18. WHEN UNLOADING COMPLETED, PERTANI WILL
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COLLECT DATA ON DELAYS AND SUBMIT THESE TO GOI FINANCE

DEPARTMENT, WHICH IN TURN RECEIVES DATA AND THEN PAYS APPROPRIATE DEMURRAGE CHARGES (FOR WHICH PRESUMABLY INDAUS WOULD APPLY).

B. PERTANI'S DIRECT INVOLVEMENT LIMITED TO FIRST 10,000 TON SHIPMENT FOR WHICH L/C ALREADY OPENED; PERTANI OFFICIALS REGARD CAMEO-NIXA CONTRACT FOR ADDITIONAL 50,000 TONS AS CANCELLED BY GOI DEPT. TRADE ACTION. THUS LONG-TERM CONTRACT PROBLEM IS TRADE DEPT. RATHER THAN PERTANI RESPONSIBILITY.

C. P.T. INDAUS PRINCIPAL MR. SADJARWO (MEMBER OF PARLIAMENT AND FORMER GOI MINISTER AGRICULTURE) THOUGHT TRADE DEPT. APPROVAL COULD STILL BE OBTAINED AND SAID INDAUS STILL IMPORTING UREA UNDER OTHER CONTRACTS. HOWEVER, HE SAID GUNN HAS NO RPT NO CONTRACT WITH P.T. INDAUS OR GOI. GUNN'S ONLY CONTRACT IS WITH KIN TAK HONG (HONG KONG) WHO IN TURN HOLDS AGREEMENT WITH INDONESIAN PARTIES. THEREFORE ONLY KIN TAK HONG AND INDAUS ARE IN POSITION TO CONTEST ANY TRADE DEPT. ACTION OR PURPORTED BREACH OF INDONESIAN CONTRACTS.

D. SADJARWO ADDED THAT NEITHER KIN TAK HONG NOR P.T. INDAUS INTERESTED IN ANY FURTHER DEALINGS WITH GUNN UNTIL GUNN PAYS THEIR COMMISSIONS ON FIRST 10,000 TON SHIPMENT, FOR WHICH THEY CLAIM GUNN ALREADY RECEIVED \$650,000 PROFIT. SADJARWO CLAIMS GUNN SWINDLED KIN TAK HONG OUT OF \$150,000 COMMISSION BY PAYING HIM WITH "CASHIERS" CHECK WHICH GUNN'S BANK SUBSEQUENTLY WOULD NOT RPT NOT HONOR. KIN TAK HONG LAWYER, LINCOLN AND CO., SPRINGFIELD, MISSOURI, NOW SUING GUNN IN MISSOURI COURT FOR THIS COMMISSION ACCORDING TO SADJARWO.

E. SADJARWO ALSO INDICATED GUNN HAD JEOPARDIZED VALIDITY OF ORIGINAL AGREEMENT WITH TRADE DEPT. THROUGH NUMBER ACTS, SOME RESULTING FROM FACT GUNN'S CONTRACT WITH KIN TAK HONG DIFFERS FROM PROVISIONS KIN TAK HONG/ INDAUS CONTRACT (LATTER TAILORED TO GOI REQUIREMENTS). HE SAID GUNN HAS FALLEN BEHIND REQUIRED DELIVERY SCHEDULE, FAILED POST ACCEPTABLE PERFORMANCE BOND MEETING GOI TECHNICAL REQUIREMENTS, QUOTED FAS INSTEAD CIF, REQUESTED "RED CLAUSE" L/C, SPECIFIED PAYMENT FOR PARTIAL DELIVERIES, ETC., ALL OF WHICH SADJARWO CLAIMS ARE UNACCEPTABLE TO GOI.

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F. HAVING THUS INVALIDATED ORIGINAL AWARD, GUNN (ACCORDING TO SADJARWO) HAS BLOCKED CHANCES NEGOTIATING NEW ARRANGEMENT WITH TRADE DEPT. BY REFUSING LOWER HIS PRICE TO LEVEL CURRENTLY ACCEPTABLE TO TRADE DEPT., I.E., ABOUT \$290 CIF. SADJARWO CLAIMS OTHER FOREIGN FIRMS HAVE MADE THIS ADJUSTMENT.

G. FINALLY, SADJARWO CLAIMS THAT GUNN, AFTER PERSUADING KIN TAK HONG POST PERFORMANCE BOND TO SECURE ORIGINAL

DEAL AND INVESTING NOTHING HIMSELF, NOW IS TRYING CUT BOTH KIN TAK HONG AND P.T. INDAUS OUT OF DEAL BY POSTING HIS OWN PERFORMANCE BOND DIRECTLY WITH DEPT. TRADE FOR SECOND SHIPMENT.

H. SADJARWO SUGGESTED USG CHECK OUT GUNN WITH AMERICAN TRADE SOURCES AND ADDED THAT GUNN'S OWN SUPPLIER, WHICH SADJARWO THOUGHT WAS MILFORD CHEMICAL & SOLVENT CORP. (OR POSSIBLY MILLER CHEMICAL & FERTILIZER CORP.) ALSO HAVING DIFFICULTIES WITH GUNN. OTHER RECORDS SEEM INDICATE GUNN'S CURRENT SUPPLY SOURCE IS "CHEMICAL INTERCHANGE CO., ST. LOUIS, MO."

I. AFTER SOME DELAY EMBOFF FINALLY REACHED TRADE DEPT. OFFICIAL SALIM SIREGAR JUNE 23. SIREGAR GAVE EMBOFF COPY OF LETTER JUST SENT EMBASSY IN RESPONSE EMBASSY'S EARLIER LETTER (REF D) TO TRADE MINISTER RADIUS PRAWIRO CONCERNING DISPUTED FERTILIZER CASES. LETTER DESCRIBES TRADE DEPT'S ROLE AS THAT OF GRANTING SUPPLIER AWARDS TO FOREIGN SUPPLIERS THROUGH THEIR INDONESIAN AGENTS. AWARD PROVIDES THAT TRADE DEPT. WILL SUBSEQUENTLY DESIGNATE "EXECUTIVE IMPORTER" (GOI AGENCY) WHICH WILL BE ULTIMATE PRUCHASER OF FERTILIZER AND WITH WHOM INDONESIAN AGENT CONCLUDES THE "SALES CONTRACT" ON BEHALF HIS FOREIGN SUPPLIER. IN THOSE CASES WHERE INDONESIAN AGENT LATER PROVED UNABLE MEET AWARD'S SUPPLY REQUIREMENTS, AGENT COULD REQUEST THAT TRADE DEPT. TRANSFER AWARD TO DIFFERENT FOREIGN SUPPLIER. IN FEBRUARY PRESIDENT SUHARTO ANNOUNCED THAT EXCESS INTERNAL SUPPLY EXISTED AND THAT NO ADDITIONAL NEW FERTILIZER CONTRACTS SHOULD BE SIGNED. THEREAFTER TRADE DEPT. UNDOUBTEDLY BECAME LESS INCLINED APPROVE REQUESTS FOR SUPPLIER AWARD TRANSFERS FROM AGENTS WHOSE FOREIGN SUPPLIERS HAD FAILED PERFORM.

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ACTION EA-10

INFO OCT-01 ISO-00 EB-07 L-03 H-02 COME-00 CIAE-00 INR-07

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TO SECSTATE WASHDC 8868

INFO AMCONSUL MELBOURNE
CAMCONSUL HONG KONG 2397
AMCONSUL SURABAYA
AMCONSUL MEDAN

C O N F I D E N T I A L SECTION 2 OF 2 JAKARTA 7605

J. RE CAMEO-NIXA CASE, SIREGAR DESCRIBED SEQUENCE
EVENTS AS FOLLOWS: MAY 1974, TRADE DEPT. AWARDED 100,000
TON UREA SUPPLY CONTRACT TO FOREIGN SUPPLIER INDAUS
TRADING CO., PTY LTD (AUSTRALIA) THROUGH ITS JAKARTA
AGENT P.T. INDAUS; SUBSEQUENTLY TRADE DEPT. ALLOCATED
50,000 TONS OF THIS SUPPLY EACH TO "EXECUTIVE IMPORTERS"
PUSRI AND PERTANI; JUNE 1974, PERTANI OPENED L/C FOR
FIRST 10,000 TONS IN FAVOR INDAUS LTD. (AUSTRALIA) BUT
INDAUS LTD. APPARENTLY UNABLE OBTAIN SUPPLY AND FAILED
POST PERFORMANCE BOND; JANUARY 1975, P.T. INDAUS (JAKARTA)
REPORTED THAT PERFORMANCE BOND AND SUPPLY AVAILABLE
FROM CAMEO-NIXA THROUGH KIN TAK HONG. SINCE CONTRACT
REQUIRED PERFORMANCE BOND BE POSTED BY SPECIFIED SUPPLIER,
P.T. INDAUS REQUESTED AND TRADE DEPT. APPROVED CONTRAECT
CHANGE (FOR FIRST 10,000 TON SHIPMENT ONLY) TO SHOW CAMEO-
NIXA INSTEAD OF INDAUS (AUSTRALIA) AS SUPPLIER. MEANWHILE,
INDAUS (AUSTRALIA) RETAINED AWARD FOR 90,000 TON
BALANCE OF CONTRACT. IN MARCH 1975, HOWEVER,
BALANCE OF INDAUS (AUSTRALIA) CONTRACT WAS ALSO CANCELLED
BECAUSE P.T. INDAUS (JAKARTA) AGAIN INDICATED INABILITY
MEET SUPPLY PROVISIONS AND REQUESTED TRADE DEPT THEREFORE
CHANGE CONTRACT TO SHOW TWO NEW SUPPLIERS FOR BALANCE,
I.E., 60,000 TONS FROM INTERNATIONAL ORE AND
FERTILIZER OF NEW YORK AND 30,000 TONS FROM DAYON LTD.,
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OF LONDON.

2. CONCLUSION: ABOVE INFORMATION SUGGESTS GUNN NEVER
DID HAVE DIRECT CONTRACT WITH ANY GOI AGENCY AND PERHAPS
ONLY WITH P.T. INDAUS THROUGH KIN TAK HONG; THUS
GUNN'S DISPUTE APPEARS BE WITH HIS MIDDLEMEN RATHER THAN
GOI, AND WHATEVER RECOURSE GUNN MAY HAVE WITH INDAUS,
OR MORE PROBABLY KIN TAK HONG, WILL PROBABLY REQUIRE LEGAL
ACTION SINCE INDAUS NO LONGER CONTRAOLS SUPPLY CONTRACT
GUNN IS SEEKING. EMBASSY UNABLE PURSUE DISPUTE FURTHER
WITHOUT COMPLETE 10 FAM 983.1 & 2 DOCUMENTATION AND
OF COURSE NOT PERMITTED IN ANY CASE TAKE POSITION ON
VALIDITY EITHER SIDE'S CLAIMS.

3. ACTION REQUESTED: DEPARTMENT PLEASE : (A) REPEAT REFS
(A) AND (B) TO HONG KONG, MELBOURNE, AND SURABAYA, IF
FURTHER ACTION DESIRABLE. PLEASE FIRST REQUEST HONG

KONG OBTAIN KIN TAK HONG AND MELBOURNE OBTAIN INDAUS TRADING CO. VERSIONS OF PROBLEM; (INDAUS TRADING CO. PTD. LTD. ADDRESS ALSO C/O PHILADELPHIA INTERNATIONAL BANK, 55 BROAD ST., NEW YORK, N.Y.); (B) REPORT RESULTS ADIWOSO CALL TO JAKARTA; AND (C) POUCH JAKARTA, HONG KONG AND MELBOURNE COPIES ALL POSSIBLE DOCUMENTATION OBTAINABLE FROM GUNN, PARTICULARLY COPIES CONTRACTS WITH KIN TAK HONG, INDAUS, AND TRADE DEPT PLUS PERFORMANCE BONDS, L/CSN SHIPPING SCHEDULES, ETC.

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4. COMMENT: EMBOFF SPOKE WITH BANK AMERICAN AND LEARNED THEY HAVE ENCOUNTERED REPEATED DIFFICULTIES PROCESSING PERFORMANCE BOND FOR GUNN DUE UNKNOWN BANKS GUNN USES AND "UNTESTED" CABLES FROM KNOWN BANKS. B OF A GROWING INCREASINGLY SKEPTICAL ABOUT BOTH GUNN AND THIS TRANSACTION. EMBOFF ASKED SADJARWO ABOUT RUSDY HERMAYN MENTIONED REF (A); SADJARWO REPLIED HERMAYN IS "IMPORTANT PERSONAGE CONNECTED WITH" BUT NOT MEMBER OF MILITARY CIRCLES, THAT HE IS MEMBER OF INDAUS GROUP, NOT OF TRADE DIRECTORATE, AND THAT GUNN KNEW THIS FACT; SODJARWO
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ADDED SIGNIFICANTLY THAT "NO MORE SHOULD BE SAID ABOUT RUSDY".

5. WHILE IN JAKARTA LAST JANUARY GUNN CLAIMED HE CLEARED UP THEN EXISTING CONTRACT PROBLEMS BY CONTACTING GEN. MUSKITA DIRECTLY. GIVEN PICTURE DESCRIBED ABOVE OF CURRENT SITUATION, PLUS KNOWN SEAMY SIDE OF INDONESIAN FERTILIZER TRANSACTIONS, AND MUSKITA'S OWN TARNISHED REPUTATION, EMBASSY FEARFUL THAT GUNN MAY HAVE MADE SOME "SPECIAL ARRANGEMENT" IN JANUARY POSSIBLY INCLUDING P.T. INDAUS) WITH MUSKITA WHICH TODAY IS COMING UNRAVELED DUE ONE OR MORE OF FOLLOWING: (A) GOI PRICING CHANGE COUPLED WITH SUHARTO "HOLTING" OF IMPORTS, (B) TRANSFER OF MUSKITA'S IMPORT RESPONSIBILITIES TO OTHER OFFICIALS; (C) INDAUS RETALIATION AGAINST GUNN FOR HIS PURPORTED ATTEMPT BY-PASS INDAUS AND KIN TAK HONG.

6. SEEMS CLEAR USG INTEREST LIES IN AVOIDING EMBROILMENT IN THIS MESSY AND POSSIBLY SCANDALOUS CASE UNLESS GUNN CAN PROVE HE HAS CLEAR, UNCOMPROMISED, AND LEGITIMATE COMPLAINT AS WELL AS CONTRACTUAL STANDING TO SUE IN INDONESIA. SO FAR EVERY PARTY IN INDONESIA WITH WHOM WE HAVE SPOKEN HAS SERIOUS DOUBTS ABOUT GUNN'S BUSINESS INTEGRITY, AND TRADE DEPT. OFFICIALS SAID REPRESENTATIVE

OF WILLIAM. HOUSSIAN AND ASSOC., P.O. BOX 1133, EVERETT,
WASHINGTON 98206; PHONE 206-629-2673 (POSSIBLY REPRESENTING
ONE OF GUNN'S SUPPLIERS) RECENTLY VISITED THEM
COMPLAINING THAT GUNN HAS LIED TO EVERYONE HE DEALT WITH.
THUS DEPARTMENT MAY WISH INVESTIGATE GUNN'S REPUTATION
WITH ONE OF SEVERAL U.S. SOURCES MENTIONED ABOVE BEFORE
FURTHER COUNSELING INTERESTED CONGRESSMEN RE THEIR
INVOLVEMENT THIS CASE. EMBASSY ALSO SUGGESTS IF GUNN
WISHES PURSUE MATTER FURTHER, THAT EVERY ATTEMPT BE
MADE ENCOURAGE HIM VISIT INDONESIA/HONG KONG IN ORDER
SORT OUT RELATIONS WITH HIS MEDDLEMEN AND GOI
HIMSELF. END CONFIDENTIAL.
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